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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,478	03/23/2001	Donna B. Dulong	CRNI.125945	5342

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EXAMINER	
GILLIGAN, CHRISTOPHER L	
ART UNIT	PAPER NUMBER
3626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/815,478	DULONG ET AL.	
	Examiner	Art Unit	
	Luke Gilligan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment

1. In the amendment filed 10/9/06, the following has occurred: claims 1, 18, and 35 have been amended. Now, claims 1-51 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engelson et al., U.S. Patent No. 6,671,563 in view of Goldfischer et al., U.S. Patent No. 4,839,806.

4. As per claim 1, As per claim 1, Engelson teaches a computer programmed method for providing one or more medication administration comments for preventing medication administration errors, wherein the one or more medication administration comments are provided at a place of administration of a medication in a hospital setting, the method comprising: accepting a medication administrator identification for a medication administrator (see column 13, lines 32-35); accepting a patient identification for a patient (see column 13, lines 25-28); displaying a graphical user interface listing one or more medications scheduled for administration to the patient (see column 8, lines 57-60); accepting the selection of one of the listed medications, the selected medication corresponding with a medication to be administered to the patient by the medication administrator (see column 13, lines 28-32, since the patient's MAR displays a graphical listing of all scheduled medications, the selection of the particular medication, through the use of a bar code, constitutes a selection of one of the listed medications); providing a data store having a plurality of compliance rules (see column 9, lines

13-24); determining if a condition for a compliance rule has been satisfied, wherein the compliance rule relates to the selected medication and has one or more associated medication administration comments for preventing medication administration errors (see column 13, lines 49-54); and displaying at the place of administration of the medication in a hospital setting, on a display device, the one or more medication administration comments associated with the compliance rule when the condition has been satisfied (see column 13, lines 54-60).

5. Engelson does not explicitly teach the compliance rules are associated with a respective medication. Goldfischer teaches a system for administration of medications within a hospital that includes the feature of, when administering a medication, the medication has a respective compliance rule, a condition for the compliance rule, and a respective medication administration comment specific to the medication (see column 10, lines 32-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate such medication specific comments, as described by Goldfischer, within the system of Engelson. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of improving the accuracy and reliability of medication administration within a hospital (see column 2, lines 65-68 of Goldfischer).

6. As per claim 2, Engelson in view of Goldfischer teaches the method of claim 1 as described above. Engelson further teaches the conditions is satisfied when a generic name for a medication matches the selected medication (see column 13, lines 49-54, since matching the name of the medication is one of the conditions, and both generic and brand name medications are routinely administered in a hospital environment, it is submitted that Engelson teaches this feature).

7. As per claim 3, Engelson in view of Goldfischer teaches the method of claim 1 as described above. Engelson further teaches the conditions is satisfied when a brand name for a

medication matches the selected medication (see column 13, lines 49-54, since matching the name of the medication is one of the conditions, and both generic and brand name medications are routinely administered in a hospital environment, it is submitted that Engelson teaches this feature).

8. As per claim 6, Engelson in view of Goldfischer teaches the method of claim 1 as described above. Engelson further teaches the comment indicates additional verification of an aspect of the medication should be performed (see column 13, lines 54-65).

9. As per claim 13, Engelson in view of Goldfischer teaches the method of claim 1 as described above. Engelson further teaches the comment indicates that the medication should be administered by a certain route (see column 13, lines 49-60).

10. Claims 18-20, 23, and 30 recite substantially similar system limitations to method claims 1-3, 6, and 13 and, as such, are rejected for similar reasons as given above.

11. Claims 35-37, 40, and 47 recite substantially similar apparatus limitations to method claims 1-3, 6, and 13 and, as such, are rejected for similar reasons as given above.

12. Claims 4-5, 7-12, and 14-17 recite various additional types of comments that can be displayed on the display device. Although Engelson teaches displaying comments (appropriate information) when a condition for a compliance rule (discrepancy check) has been satisfied, the reference does not explicitly disclose the particular comments recited claims 4-5, 7-12, and 14-13. However these differences are only found in the non-functional data defining the comment displayed on the display device. Data identifying the type of comment displayed is not functionally related to the steps recited in the claim. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see Cf. In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Furthermore, in addition to the types of comments that are

disclosed by Engelson, as described above, the various types of comments identified in claims 4-5, 7-12, and 14-17 are all old and well known in the art of medication administration.

14. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display any data on the display device as shown in Engelson because such data does not functionally relate to the steps recited in the claim and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. *See In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

15. Claims 21-22, 24-29, and 31-34 recite substantially similar system limitations to method claims 4-5, 7-12, and 14-17 and, as such, are rejected for similar reasons as given above.

16. Claims 38-39, 41-46, and 48-51 recite substantially similar apparatus limitations to method claims 4-5, 7-12, and 14-17 and, as such, are rejected for similar reasons as given above.

Response to Arguments

17. In the remarks filed 10/9/06, Applicant argues in substance that Engleson fails to teach compliance rules that a specific to the particular medications being administered as now more clearly recited in the amended claims. In response to Applicant's argument, the Examiner respectfully submits that the teachings of Goldfischer have now been relied upon as detailed above in a new grounds of rejection. In particular, it is noted that Goldfischer teaches such medication-specific compliance rules as described above. Therefore, this argument is moot in view of the new grounds of rejection detailed above.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/21/06

C. LUKE GILLIGAN
PRIMARY EXAMINER
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